

THE STATE OF NEW HAMPSHIRE
Merrimack County Superior Court
163 N. Main Street
P. O. Box 2880
Concord, NH 03301 2880
603 225-5501

copy for
Atty

ORDER OF NOTICE

State of New Hampshire v. Kevin M. Guay
Department of Environmental Services

NO. 08-E-0144

RETURN DAY: 06/03/2008

You have been sued and named as a party in a case filed with the Merrimack County Superior Court. Attached is a copy of the pleading which began this case.

State of New Hampshire, Department of Environmental Services shall notify each Defendant of the above action by serving the defendant(s) immediately with a copy of the pleading initiating the case, orders that the Court has already issued, and this Order in a manner allowed by law. Plaintiff shall file with the Clerk verification of the service process by June 03, 2008.

IMPORTANT NOTICE TO Kevin M. Guay:

You must file a written appearance form with the Clerk on or before June 03, 2008. You must also file by July 03, 2008 a plea, answer or demurrer. Send a copy of the appearance form and any other documents filed with the court to the attorney for the party filing the pleading or to the party if there is no attorney. The name and address of the attorney or the party filing the pleading is contained in the pleading. If you do not comply with these requirements you will be considered in default, you will not have an opportunity to dispute the claim(s) and the court may issue orders in this matter which may affect you without your input.

NOTICE OF HEARING: A Hearing on the following matters is scheduled for May 05, 2008 at 9:00 AM. in Concord:

Temporary Hearing

Hearing will be limited to offers of proof, 15 minutes per party. Motions for a more extended hearing will be addressed at this hearing. Parties against whom ex parte relief has been issued may request a more immediate hearing. Service of this notice must be effected immediately.

Please advise clients, witnesses, and others that it is a class B felony to carry a firearm or other deadly weapon as defined in RSA 625:11,V in a courtroom or area used by a court.

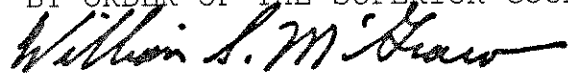
Service to be made forthwith - in-hand.
See attached order by Justice Philip P. Mangones.

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RE: State of NH, Dept. of Environmental Servs. v. Kevin M. Guay

BY ORDER OF THE SUPERIOR COURT



04/25/2008

William McGraw
Clerk of Court

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

State of New Hampshire
Department of Environmental Services

v.

Kevin M. Guay

TEMPORARY RESTRAINING ORDER

Having considered the State's motion for a temporary restraining order contained in the State's *Verified Petition for an Ex Parte Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Civil Penalties* filed by the State of New Hampshire, Department of Environmental Services ("State"), the following is hereby:

ORDERED, ADJUDGED, AND DECREED:

1. On April 25, 2008, at _____ a.m./p.m., this Court issued this temporary restraining order in favor of the State against the defendant.
2. The facts pled by the State in its verified petition clearly demonstrate that the defendant's actions threaten immediate and irreparable injury, loss, or damage to the public. The facts alleged in the State's verified petition are hereby incorporated by reference.
3. Specifically, it is clear that the actions of the defendant have destabilized the soil at the defendant's property located at 30 Villanova Drive, Concord, New Hampshire ("Property").
4. This destabilization of the soil has resulted in the release of sediment-laden water into Penacook Lake along with a nearby brook and wetlands complex.
5. The release of sediment-laden water has reduced water quality in the brook, wetlands, and Penacook Lake by causing otherwise clear water to become highly turbid. In other words, the water is now partially saturated with suspended sediment.
6. Penacook Lake and its tributaries are Class A waters and Penacook Lake is the drinking water supply for the City of Concord, New Hampshire.
7. Pursuant to RSA 485-A:8, I, no discharge of waste is allowed into a Class A water body.

8. Failure to take immediate and substantial corrective actions will result in continued releases of sediment-laden water into Penacook Lake and its tributaries.

9. In addition, the release of sediment-laden water has resulted in filling of a nearby jurisdictional wetland.

10. For these reasons, erosion on the Property must be controlled to prevent irreparable harm to the functions and values of the wetlands and the stream channel on the Property, and to prevent irreparable harm to a public drinking water supply for the City of Concord, Penacook Lake.

11. The State's counsel called the defendant at approximately 10:40 a.m. on Friday, April 25, 2008, to inform him of the State's intent to file a motion to seek a temporary restraining order. The defendant did answer the phone and no voice mail was available.

12. The defendants are hereby enjoined from making any alteration to the Property other than those needed to stabilize the Property.

13. The defendants shall immediately take any and all legally available measures necessary to ensure that sediment-laden water does not leave the Property.

14. The defendants are also hereby ordered to: (1) hire, by Tuesday, April 29, 2008, a Certified Professional in Erosion and Sediment Control ("CPESC") to immediately stabilize the Property and to prevent any sediment-laden water from leaving the Property; (2) provide the CPESC with all the financial and material resources needed to immediately stabilize the Property and to prevent any sediment-laden water from leaving the Property. The CPESC shall control and supervise all stabilization measures.

15. This Order shall be in force until May 5, 2008, at 9 am ~~pm~~ at which time the State's request for a preliminary injunction shall be heard. *(Date to be provided by clerk's office)*

Dated: April 25, 2008


Presiding Judge

PHILIP R. MANGIONE
PRESIDING JUDGE